

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Prescott Post Office  
Prescott, Iowa

Docket No. A2012-60

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

February 8, 2012

I. INTRODUCTION

On November 7, 2011, the Commission received correspondence from postal customer Dan Westlake objecting to the Postal Service's decision to close the Prescott, Iowa Post Office (Prescott Post Office).<sup>1</sup> Subsequent correspondence from Joyce James was received November 17, 2011.<sup>2</sup> The Postal Service's decision, which is the subject of this proceeding, was made on October 27, 2011.<sup>3</sup>

On November 28, 2011, the Commission issued an order instituting the current review proceedings, appointing the undersigned Public Representative, and establishing a procedural schedule.<sup>4</sup>

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<sup>1</sup> See Letter of Dan Westlake, November 7, 2011 (Westlake Petition for Review).

<sup>2</sup> See Letter of Joyce James, November 17, 2011 (James Petition for Review).

<sup>3</sup> Final Determination to Close the Prescott, IA Post Office and Establish Service by Rural Route Service, October 10, 2011 (Final Determination). The Final Determination was included as Item No. 47 in the Administrative Record (AR) filed by the Postal Service on November 22, 2011. Citations to the Final Determination will use the abbreviation "FD" followed by the page number, rather than to AR Item No. 47. All other items in the Administrative Record are referred to as "AR Item No. \_\_\_\_"

<sup>4</sup> PRC Order No. 1001, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 28, 2011.

## II. STATEMENT OF FACTS

The Prescott Post Office is located at 113 6<sup>th</sup> Avenue, Prescott, Iowa, 50859-9901. Prescott is an incorporated community located in Adams County in southwest Iowa. AR Item No. 4. The Prescott Post Office provides service to 205 rural route carrier deliver customers, 75 post office box customers and retail customers 40.5 hours per week. AR Item Nos. 13 and 15. There are two permit mailers and no postage meter customers. AR Item No. 18.

On April 29, 2011, the Postal Service notified customers of the Prescott Post Office of a "possible change in the way your postal service is provided." AR Item No. 21. The notice informed customers that pickup and delivery services, as well as the sale of stamps and all other customer postal services, would be provided by rural route carriers administered by the Corning Post Office. *Id.* Post office box customers were informed that post office box service would continue to be "available at [the Corning] location at increased fees." *Id.* The Corning office is located 11 miles away. *Id.* Customers were also invited to attend a community meeting on May 16, 2011, where postal representatives "would answer questions and provide information about our service." The meeting was held on May 16<sup>th</sup> as scheduled with 19 customers indicating attendance. AR Item No. 24. In addition, customers were asked to complete and return a questionnaire accompanying the notice by the date of the community meeting. AR Item No. 21.

On June 23, 2011, a Proposal to Close the Prescott, IA Post Office and Establish Service by Rural Route Service was posted at the Prescott and Corning post offices for 60 days. AR Item No. 33. Subsequently, on October 21, 2011, the Final Determination was posted at the Prescott Post Office and the Corning Post Office for the mandatory 30-day posting period. AR Item No. 48.

The Final Determination states that the decision to close was based upon (1) a decline in workload; (2) effective and regular service will continue to be provided by rural route service emanating from the Corning Post Office; and (3) estimated annual savings to the Postal Service of \$33,532. FD at 6. The Final Determination also

responded to various concerns expressed by postal customers in the questionnaires and at the May 16, 2011, public meeting. *Id.* at 2-6.

### III. POSITIONS OF THE PARTIES

#### A. The Petitioners

In the Petition for Review filed November 7, 2011, Petitioner Westlake argues that the Prescott Post Office should remain open to provide “jobs for the American people.” The Petition for Review filed November 17, 2011, by Petitioner James urges the Postal Service to consider other options as “alternatives . . . to completely closing the Prescott, IA Post Office—alternatives that will be financially helpful to the Postal Service and the residents of Prescott.” In this regard, Petitioner James suggests keeping the post office box section/lobby open for a few hours each day rather than spending additional money to install Cluster Box Units (CBUs). James Petition for Review. Subsequently, on December 14, 2011, Petitioner Westlake filed an initial brief in the form of a Participant Statement urging the continued operation of the Prescott Post Office for the benefit of the employees and postal customers of Prescott, Iowa.<sup>5</sup>

#### B. The Postal Service

In PRC Order No. 1001, the Commission directed the Postal Service to “file the applicable administrative record in this appeal.”<sup>6</sup> On November 22, 2011, the Postal Service provided an electronic version of the administrative record.<sup>7</sup>

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<sup>5</sup> Participant Statement, December 14, 2011, (Westlake Initial Brief).

<sup>6</sup> Order No. 1001 at 5. .

<sup>7</sup> See United States Postal Service Notice of Filing Administrative Record, November 22, 2011 (Notice). The Notice states that the Postal Service is filing an “electronic version” of the administrative record concerning the Final Determination to Close the Prescott, IA Post Office and Establish Service Rural Route Service. *Id.*

On January 3, 2012, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 1001.<sup>8</sup> In that filing, the Postal Service argues that: (1) it has met all the procedural requirements of section 404(d); and (2) it has considered all pertinent criteria, including the effect of the closing on postal services, the community, employees, and the economic savings from the discontinuance of the Prescott facility. *Id.* at 13.

#### IV. STANDARD OF REVIEW AND APPLICABLE LAW

##### A. Standard of Review

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service. Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal.

##### B. The Law Governing Postal Service Determinations

Prior to making a determination to close or consolidate a post office, 39 U.S.C. §404(d)(1) requires that the Postal Service shall provide adequate notice of its intention

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<sup>8</sup> See United States Postal Service Comments Regarding Appeal, January 3, 2012 (Comments).

at least 60 days prior to the proposed date of such action to persons served by such post office to insure they have an opportunity to present their views. The Postal Service's rules require posting of the Final Determination for at least 30 days. 39 CFR 241.3(g)(1)(ii).

In addition, prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404(d)(2) to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A)

The Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

The Postal Service also has regulations prescribing its requirements for closing post offices. 39 CFR 241.3.

## V. THE POSTAL SERVICE'S FINAL DETERMINATION

After reviewing the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by the Petitioner, and Postal Service Comments, the Public Representative believes that the Postal Service has complied with the statute and its own rules. This includes posting procedures concerning the Final Determination on October 26, 2011. Moreover, the Postal Service's Final Determination has adequately considered the effect of closing the Prescott Post Office on the community. The Postal Service has also considered the effect of the closing on

postal services provided to Prescott customers. In this regard, it appears that effective and regular service will be maintained if the post office is closed.

However, the Final Determination's analysis of the effect on employees of closing the Prescott Post Office is inadequate as it relates to the calculation of economic savings, which are overstated. These flaws rise to the level of a failure to consider sufficiently the factors required by section 404(d). Consequently, the Final Determination should be remanded.

Section 404(d)(2)(A)(iv) requires consideration of "the economic savings to the Postal Service resulting from such closing." This requirement is impacted to a considerable degree by another requirement of Section 404(d): the effect on employees of the Postal Service employed at the office. 39 U.S.C. § 404(d)(2)(A)(ii).

The Postal Service estimates annual savings of \$33,532 from closure of the Prescott Post Office. FD at 7. Most of these savings are attributable to "Postmaster Salary (EAS-11, No COLA)" of \$33,168 and fringe benefits equal to 33.5 percent, or \$11,111. *Id.* The Postmaster at Prescott retired on in July 2009, and has not been replaced. Since that time, an Officer-in-Charge (OIC) has operated the Prescott Post Office as a noncareer Postmaster Relief (PMR). *Id.* No other employee will be affected by the closure. *Id.*

Neither of the Petitioners nor any other postal customer directly challenges the Postal Service's calculation of economic savings of \$33,532. Nevertheless, the Public Representative considers the Postal Service's calculation of economic savings based upon the salary and benefits of an EAS-11 Postmaster to be faulty and therefore cannot stand up to scrutiny.

The Postal Service has relied on an OIC, rather than replacing the EAS-11 Postmaster, to operate the Prescott Post Office and has enjoyed the economic savings arising from employing that OIC at a reduced salary and no benefits. These circumstances suggest that the Postal Service is under no obligation of any type to replace the current OIC even if the Prescott Post Office remains open. To the contrary, economic logic suggests that the Postal Service would continue to employ an OIC at the

Prescott Post Office to generate future savings rather than installing an EAS-11 Postmaster. Thus, the Postal Service's economic saving calculations based upon the salary and benefits of a future EAS-11 Postmaster, *assuming the Prescott Post Office remains open*, are unlikely and therefore not a basis for calculating savings.

As a result, the Postal Service's calculation of economic savings must begin with the elimination of costs currently being incurred at the Prescott Post Office *assuming that office is closed*. It is simply wrong to calculate economic savings based upon the salary and benefits of a possible future Postmaster assuming continued operation of the Prescott Post Office when the costs to be saved are the real salary costs of the OIC arising from closure of Prescott Post Office. If the post office remains open the Postal Service will incur costs upon the hiring of an EAS-11 Postmaster, not cost savings. Therefore, the salary and benefits of the EAS-11 Postmaster should be replaced with the salary of the OIC in the calculation of economic savings.

However, the Postal Service's calculation of economic savings is faulty in another respect. The claim that the noncareer OIC "may be separated from the Postal Service" identifies one obvious alternative for the OIC. The Postal Service also states that "attempts will be made to reassign the employee to a nearby facility." Comments at 2 and 12. Or that employee may otherwise continue employment elsewhere with the Postal Service. These are the other obvious alternatives. Consequently, Postal Service simply provides no basis for determining whether the OIC will be separated from or will continue employment with the Postal Service.

Unless and until the Postal Service provides a justification for considering that there will be a reduction in employment associated with closure of the Prescott Post Office, the inflated economic savings claimed by the Postal Service should also be reduced by excluding any assumed employee costs. In the case of the Prescott Post Office, those employee costs represent the amount of OICs salary.

After adjusting the calculation of economic savings by removing the EAS-11 Postmaster costs, and excluding any savings associated with the OICs salary assuming continued employment, the economic savings to the Postal Service are negative. The

adjusted economic savings total a negative \$10,747 (*i.e.*, the \$10,747 Annual Cost of Replacement Service). All other things being equal, the Postal Service will be able to provide postal services to customers at less cost by continuing operation of the Prescott Post Office than closing it.

## VI. CONCLUSION

The Postal Service's Final Determination to close the Prescott Post Office should be remanded to the Postal Service to remedy the deficiencies identified above.

Respectfully Submitted,

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